REMARKS

Claims 1, 2, 4, 5, and 31 – 52 were pending in the Application prior to the outstanding Office Action. In the Listing of Claims above, Applicant has amended claims 1, 2, 4, 5 and 31 – 52. In the Office Action, the Examiner rejected claims 1, 2, 4, 5, 31 – 38 and 44 – 49 under 35 U.S.C. §102(e), and claims 39 – 43 and 50 – 52 under 35 U.S.C. §103(a). Each of these rejections is discussed below.

I. RESPONSE TO REJECTIONS UNDER 35 U.S.C. §102(e)

In the Office Action, the Examiner explicitly rejected claims 1, 2, 4, 5 and 31 – 38 as being anticipated by U.S. Patent 6,011,794 by Mordowitz et al. ("Mordowitz"). Applicant notes that claims 44 – 49 are also discussed in the same section as these claims so Applicant presumes that the Examiner intended to include claims 44 – 49 in the §102(e) rejection.

Applicant notes that Mordowitz was filed on September 9, 1996 which post-dates the Applicants date of invention. Mordowitz therefore does not constitute §102(e) prior art. Nevertheless, the present claims are clearly distinguishable over Mordowitz as explained below and the Applicant presently responds on that basis.

Overview of Mordowitz

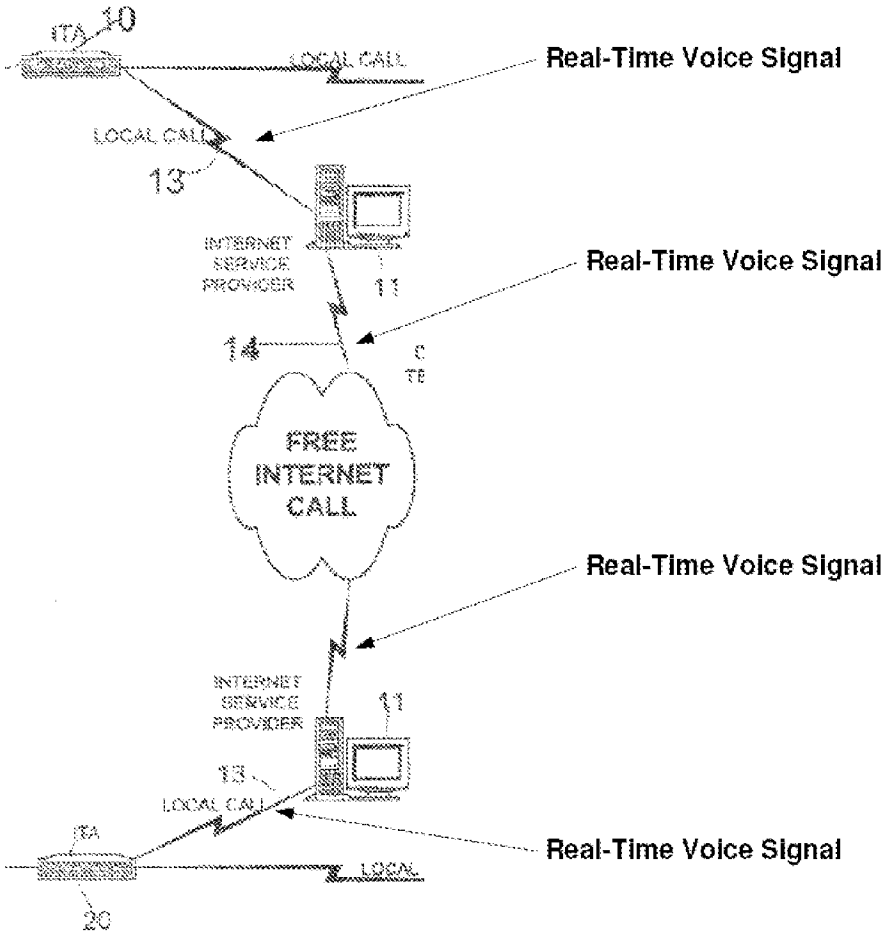
Mordowitz discloses a system in which voice signals are transmitted between a caller and receiver in real-time in order to accomplish a live telephone call over the Internet. See for example column 2, lines 25-41, which discusses "telephone to telephone calling through the internet" and the ability to "convert analog voice originating at each telephone set to a stream of compressed digital voice suitable for transmission over the internet." See also column 3, lines 11-18, and column 4, lines 45-54. In the latter passage Mordowitz explains that "[t]he two parties 18, 22 can now freely converse (step 106) with one another over the Internet during which analog voice signals emanating from the telephones are continuously converted …" Note that the present application discusses real-time voice communication over the Internet, such as in Mordowitz, in the background section on page 2, lines 3-12.

Independent claims 1, 4 and 34 are not anticipated by Mordowitz

In contrast to Mordowitz, the present invention relates to transferring voice message files over a network. For example, in one embodiment a message from a caller is recorded into a digital message file and then, after the voice message is complete, that message file is transmitted over the Internet. This type of communication is fundamentally different from the real-time transfer of voice signals between two endpoints. In particular, it is aggregated, it is not real-time and it is unidirectional.

For further illustration, consider Figure 1 of Mordowitz illustrated below. Links 13 and 14 carry real-time voice signals. Mordowitz does not disclose a digital message file; voice signals are only transmitted in real-time between source and destination.

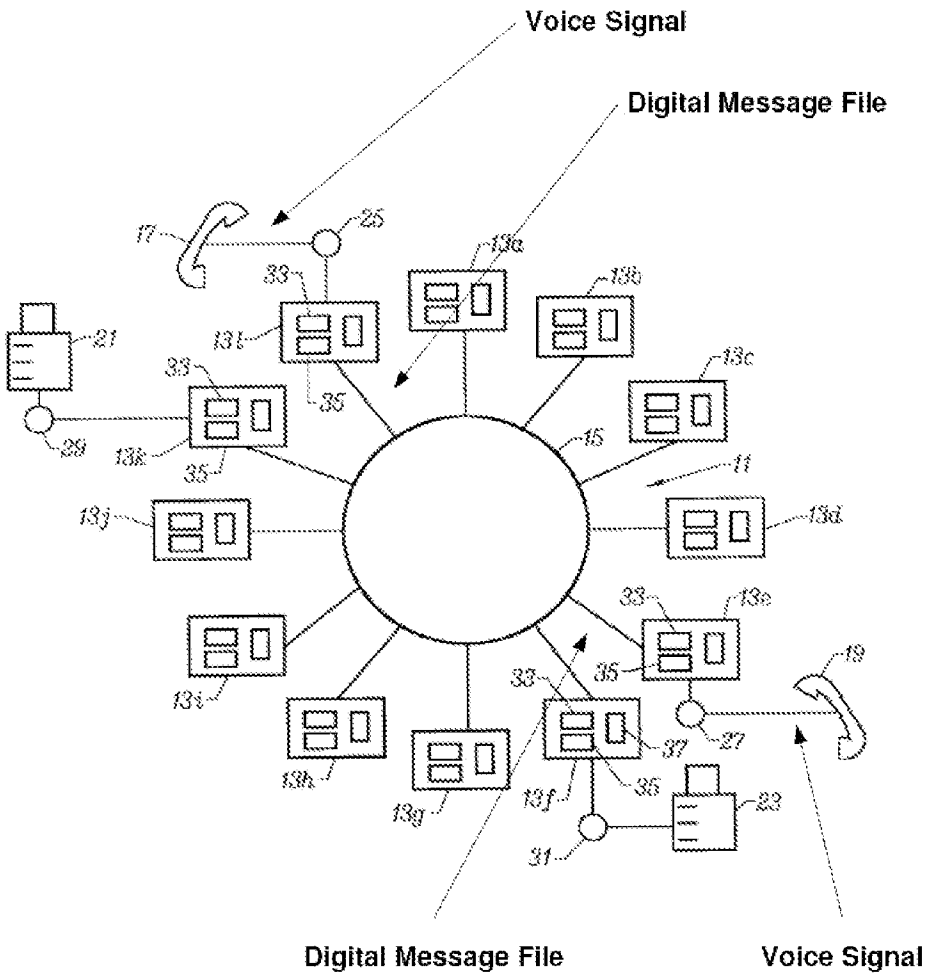
Mordowitz, Figure 1 (detail, with annotations)



In contrast, independent claim 1 of the present application as amended recites, among other things, “a voice encoding device configured to … generate a digital message file,” and “a transmission device configured to transmit said digital message file,” and recites that the transmission device “transmits said digital message file through said network after said voice encoding device generates said digital message file.”

As illustrated below, in one embodiment access device 13*l* receives a voice signal from telephone device 17 and after creating a digital message file transmits that file over a network to a second access device 13*e*. The second access device then decodes the digital message file and generates a voice signal for telephone device 19.

Present Application, Figure 1 (with annotations)



Mordowitz does not disclose the generation nor transmission of a voice message file. Mordowitz discloses only the real-time streaming of voice signals from a caller directly to a recipient. There is no ability in Mordowitz to convert a voice signal into a digital message file and then to transmit the recorded voice message file over a network. The system disclosed in Mordowitz would not be useable except in the case that a real-time connection is established directly between the caller and the recipient. Independent claim 1 is therefore not anticipated by Mordowitz.

Similarly, independent claim 4 as amended recites, among other things, "encoding [a] voice signal into a digital message file," and "transmitting said digital message file over a network," and recites that the transmitting occurs "after said step of encoding." Mordowitz does not disclose any embodiment in which a voice message file is created and subsequently transmitted. Mordowitz discloses only the real-time streaming of voice signals from a caller directly to a recipient. Independent claim 4 is therefore not anticipated by Mordowitz.

Independent claim 34 as amended recites, among other things, "a receiving device configured to receive a digital message file" and "a voice decoding device configured to decode said digital message file and generate a first voice signal," and recites that the decoding device "generates said first voice signal after said receiving device receives said digital message file." Mordowitz does not disclose any embodiment in which a voice message file is received and subsequently decoded into a voice signal. Mordowitz discloses the real-time streaming of voice signals from a caller directly to a recipient. Independent claim 34 is therefore not anticipated by Mordowitz.

Dependent claims 2, 5, 31 – 33, 35 – 38 and 44 - 49 are not anticipated by Mordowitz

Dependent claims 2, 31 – 33 and 44 – 46 dependent directly or indirectly from independent claim 1. Dependent claims 5, 38, 48 and 49 depend directly or indirectly from independent claim 4. Dependent claims 35 – 37 and 47 depend directly or indirectly from independent claim 34. These dependent claims include all of the limitations of the independent claim from which they depend. Applicants assert that

dependent claims 2, 5, 31 – 33, 35 – 38 and 44 – 49 are not anticipated by Mordowitz for at least the reasons set forth above concerning independent claims 1, 4 and 34.

II. RESPONSE TO REJECTIONS UNDER 35 U.S.C. §103(a)

In the Office Action, the Examiner explicitly rejected claims 39 and 40 as being unpatentable over Mordowitz in view of U.S. Patent 5,155,760 by Johnson et al. ("Johnson"). Applicant notes that claims 41 – 43 and 50 – 52 are also discussed in the same section as these claims so Applicant presumes that the Examiner intended to include claims 41 – 43 and 50 – 52 in the §103(a) rejection.

Overview of Johnson

Johnson discloses an improvement to traditional voice mail systems and answering machines to allow "barge in" of the outgoing message by the recipient. See for example column 2, lines 10-22. This involves a signal enhancement device and a speech detection device as described in column 2, lines 32-50. The motivation behind Johnson is to allow users listening to an outgoing message to start speaking before the outgoing message has completed.

Johnson does not disclose the transmission of a voice message file over a network, but merely a traditional voice mail system and answering machine that records voice messages. See for example column 1, lines 12-24, and column 6, lines 1-25, and lines 45-65. There is no disclosure in Johnson of the transmission of a recorded message file. The system disclosed in Johnson is an improved method of recognizing when an outgoing message should be interrupted and a recording should be started. The traditional voice mail and answering machines disclosed in Johnson are not capable of transmitting message files.

Independent claims 4 and 40 are patentable over Mordowitz in view of Johnson

Independent claim 4 as amended recites, among other things, "encoding [a] voice signal into a digital message file," and "transmitting said digital message file

over a network," and recites that the transmitting occurs "after said step of encoding." Mordowitz in combination with Johnson would not be able to create and subsequently transmit a voice message file. Mordowitz discloses the real-time streaming of voice signals from a caller directly to a recipient and Johnson discloses traditional voice mail systems and answering machines. Thus, even if combined, Mordowitz and Johnson do not comprise the elements recited in claim 4. Independent claim 4 is therefore patentable over Mordowitz in view of Johnson.

Independent claim 40 as amended recites, among other things, "receiving a digital message file," and "decoding said digital message file to generate a first voice signal," and states that the decoding step takes place "after said step of receiving." Mordowitz in combination with Johnson would not be able to receive and subsequently decode a voice message file. Mordowitz discloses the real-time streaming of voice signals from a caller directly to a recipient and Johnson discloses traditional voice mail systems and answering machines. Thus, even if combined, Mordowitz and Johnson do not comprise the elements recited in claim 40. Independent claim 40 is therefore patentable over Mordowitz in view of Johnson.

Dependent claims 39, 41 – 43 and 50 – 52 are patentable over Mordowitz in view of Johnson

Dependent claims 39, 50 and 51 depend directly or indirectly from independent claim 4. Dependent claims 41 – 43 and 52 depend directly from independent claim 40. These dependent claims include all of the limitations of the independent claim from which they depend. Applicants assert that dependent claims 39, 41 – 43 and 50 – 52 are patentable over Mordowitz in view of Johnson for at least the reasons set forth above concerning independent claims 4 and 40.

Respectfully submitted,

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